

UNITED STATES DISTRICT COURT

for the
M. dale District of Tennessee
Columbia Division

RECEIVED

JUN 22 2022

US DISTRICT COURT
MID DIST TENN

Case No.

01-22 0023

(to be filled in by the Clerk's Office)

Robert Owen Smith

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Dr. Elaine Rodela, Core Civic, INC

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Robert Owen Smith

All other names by which
you have been known:

ID Number

345745

Current Institution

South Central Correctional Facility

Address

555 Forrest Ave.

Clifton

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Dr. Elaine Rodela

Job or Title (*if known*)

Facility Physician

Shield Number

Employer

Core Civic, S.C.C.F.

Address

555 Forrest Ave.

Clifton

City

State

38425

Zip Code

☒ Individual capacity☐ Official capacity

Defendant No. 2

Name

Core Civic, INC.

Job or Title (*if known*)

Shield Number

Employer

Address

Brentwood

City

State

Zip Code

☐ Individual capacity☒ Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐ Individual capacity

☐ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐ Individual capacity

☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

VIII Amendment U.S. Const. Cruel & Unusual Punishment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Dr. Rockla
Acted under color of State law as physician at
TDOC, Cork Civic as Contractor operating B.C.C.F

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Please see attached Complaint

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Please see attached Complaint

C. What date and approximate time did the events giving rise to your claim(s) occur?

Please see attached Complaint

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Please see attached Complaint

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Please see attached Complaint

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

please see attached complaint

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

S.C.C.F.

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Failure to provide meds, failure to refer and take plaintiff to outside specialist.

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

S.C.C.F

2. What did you claim in your grievance?

Failure to issue meds, failure to refer and get to outside appl. Grievance and responses attached

3. What was the result, if any?

Issued Med

None as far as outside specialist

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

appealed to Warden, appealed to Commissioner

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

A. For Parties Without an Attorney

Date of signing: 5-26-22

Prison Address

~~Robert Owen Smith~~
Robert Owen Smith
334745
555 Forrest Ave.
Clifton TN 38425
City State Zip Code

B. For Attorneys

Date of signing: _____

Address

E-mail Address

City _____ State _____ Zip Code _____

4-27-22

Mr. Hinnerger:

My name is Robert Smith #354745 and I am housed at South Central Correctional Facility operated by your company. I am a cancer patient diagnosed with Skin Cancer and I have been promised surgery from the start. Dr. Rodela the facility physician informed me that no surgeon would perform the surgery because CoreCivic doesn't pay them for services rendered. Since CoreCivic does not utilize Special Needs it is CoreCivic's responsibility to pay these costs meaning your responsibility sir. Let this letter serve as notice according to PLRA requirements as exhaustion of administrative remedies. I hope to hear from you soon.

Very truly yours,

Robert Smith
Robert Smith #00354745

Complaint

My name is Robert Smith and I am an inmate with the Tennessee Department of Correction (TDOC) at the South Central Correctional Facility (SCCF) in Clifton, TN. CoreCivic operates SCCF for TDOC and all of the events that give rise to my complaint happened here at SCCF since 2020. All of the events were perpetrated by Dr. Elaina Rodela in here individual capacity for failing to initiate and referred the Plaintiff for surgery sooner to prevent the pain and progression of the cancer and CoreCivic in their official capacity for refusing to paying for the surgery and not having sufficient staff the transport the Plaintiff to necessary medical appointments, for deliberate indifference to my serious medical needs, which have caused unnecessary pain and suffering, as well as fear, while acting under color of state law.

Chronological Order Of Events

1. I was diagnosed with skin cancer in 2020; I am unsure of the exact date, maybe in the spring.
2. My first Appointment set with specialist was on July 20, 2020, but I refused the appointment because I was scared of getting COVID-19, considering that cancer causes your immune system to be weaker.
3. The next Appointment was not scheduled until October 12, 2021, over 1 year later. At this appointment the specialist informed me that successfully removing the cancer would involve removing part of the left side of my face, because the cancer is on the left side on the jaw line right below the left ear. He told me that I would lose my left ear out of necessity, and stated that he wanted to schedule surgery. The surgery was never scheduled.
4. On February 17, 2022, I was taken to another specialist in Jackson, TN, Dr. Arnold, who was furious that this cancer area had not been removed, stating that when first diagnosed it could have been removed in the office, but that now it required major surgery. She added more pain medication with specific instructions to the facility to get this medication filled, and to make sure I didn't miss a dose of the medication, and that the medicine was to be filled as prescribed.
5. On February 25-26, 2022, I had still not received the pain medicine prescribed by Dr. Arnold. Nurse Austin, who was the charge nurse that handled the issue, told me that Dr. Rodela had failed to sign a document that would allow them to dispense the medicine to me. She attempted numerous times to get in touch with Dr. Rodela to get a telephone authorization, as Dr. Rodela was the only person who could authorize that medication, with no success. Finally, Nurse Austin sent Dr. Rodela an email, and Dr. Rodela called the infirmary to see what the issue was concerning the email. Dr. Rodela offered no response as to why she was not answering her phone, and when asked why she hadn't signed the authorization, Dr. Rodela

stated that she “forgot to do it.”

6. On March 8, 2022, I was scheduled to have surgery, and the appointment was canceled without an explanation.
7. On April 27, 2022, APN Dean and Dr. Rodela informed me that CoreCivic was not going to pay for the surgery, and that Dr. Arnold was no longer taking care of inmates, because CoreCivic had not paid the physician for services rendered.
8. On April 28, 2022, I wrote a letter to Damon Hinnerger who is the President and CEO of CoreCivic, since one cannot file a grievance against someone who isn't at this facility. I am sending a copy of the letter with this complaint.
9. On May 12, 2022, after having bilateral rib pain, X-rays were taken and I was informed by Nurse Janet Pitts, RN, that I had fractures of rib 5 on the left side and rib 8 on the right side. I have never had any problems with fracturing bones and I asked nurse Pitts about this being related to my cancer spreading that she cannot diagnose but that in bone cancer, she has seen many patients who have experienced fractures of bones for no reason.

Dr. Elaina Rodela's Role

1. Dr. Rodela is the only physician at this facility, and is responsible for every inmate at South Central.
2. She is a physician licensed to practice medicine in Tennessee.
3. Dr. Rodela has a legal and ethical obligation to provide adequate medical care to me as an inmate of SCCF, where she is assigned as medical director. She has failed to do so.
4. Dr. Rodela is rarely here; so CoreCivic is utilizing tele-med physicians to get her “caught up” on all of her accumulated work, which is a process unheard of in any prison.
5. Dr. Rodela has failed to track my care by not coming to work and she does not demonstrate that she is concerned at all, contrary to and in violation of the medical code of ethics.
6. Dr. Rodela could have authorized the surgery much sooner, but she chose not to; and she can rush medical procedures for conditions such as cancer, and she has failed to do so.
7. Dr. Rodela, by her inaction, has caused much pain and anxiety, because this cancerous spot is getting bigger, and other similar spots on my head appear to be forming.
8. As a result of Dr. Rodela's deliberate indifference to my cancer, the cancer seems to be spreading: one symptom is the loss of 31 pounds in 3 weeks, without any illness or explanation.
9. APN Dean has handled all of my care, because Dr. Rodela apparently refuses to examine me.
10. By disregarding her legal and ethical obligations to me as a patient. Dr. Rodela does not display

the competency of other physicians.

11. In my conversations with Dr. Rodela, and listening to the testimony of others, Dr. Rodela shows disdain for the medical care of the very inmates she is responsible for.
12. CoreCivic is responsible for my medical care and won't pay for the surgery according to Dr. Rodela. Since I cannot get my own medical care it is the responsibility for CoreCivic to pay for the necessary surgeries.
13. It is also the responsibility to have adequate staff to transport me to the appointments and being short of staff is not an acceptable reason for missing appointments. The Wardens, Assistant Wardens, or other trained personnel at the administrative level can do the transport or specifically schedule two officers for the appointment.
14. CoreCivic shares equitable responsibility as the physician because CoreCivic's contract with the state provides that CoreCivic will take care of medical care and expenses associated with the medical care.

CoreCivic's Role

I am in prison by order of the Court for crimes that I have committed and placed in the custody of the Tennessee Department of Correction. South Central Correctional Facility is operated by CoreCivic, a private prison contractor that currently operates SCCF. Since I do not have the ability to obtain medical care on my own due to the order of the Court, CoreCivic acting under color of state law as an agent of the Tennessee Department of Correction to provide all required and necessary medical care. In my case it is cancer and it appears to be spreading. CoreCivic chooses not to use the medical care system that TDOC has in place. TDOC receives inmates from their housing facility at the Lois M. DeBerry Special Needs Facility in Nashville and places the inmates in transient housing. The inmates are then transported to their medical appointment and then returned to their housing facility. Most of the appointments these inmates got to are specialty appointments that are unavailable at their facility.

CoreCivic has not met financial responsibilities with the physicians they normally use and the providers are refusing services to any inmate from CoreCivic facilities resulting in an extended delay of care. Furthermore, SCCF is so short of staff that medical appointments are canceled on a daily basis and CoreCivic is aware of these shortages because they may affect the security of the facility and have still done nothing to get the Plaintiff to his appointments that have been missed.

Effects Of Dr. Rodella's Deliberate Indifference On My Quality Of Life

I have lived in a nightmare because of the cancer diagnosis and how Dr. Rodella has failed to ensure that I had surgery. It is not unreasonable for anyone not to want to go to a hospital during the height of the COVID pandemic because I feared for my own life because of the cancer diagnosis. I could not understand that, once the pandemic spike had slowed, why the appointment was not rescheduled much sooner. I cannot get medical care for myself, due to my incarceration, and granted that I am in prison because of crimes I committed, that does not justify delaying necessary care and surgery to remove a potentially fatal condition. All of these things that are happening to me constitute cruel and unusual punishment, caused by Dr. Rodella's deliberate indifference to my extremely serious medical needs--needs that may end up costing me my life. The physical pain is still breaking through, in spite of the medication, and my fear of impending death exacerbates the pain.

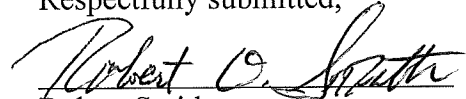
TDOC has facilities that could house me and ensure that the surgery and medical care I need will be provided. CoreCivic is required to do the same, but has refused to pay for the necessary surgery. As a matter of fact, a facility legal aid is assisting me with the complaint form that was filled out and was helpful enough to type this part of the complaint, and to make sure that it is easy to understand. I am not a lawyer and my education is not at the level to handle this case. My legal aid is going to ask for a lawyer in a motion he said that he was going to type up and send with this, as I really don't have the knowledge to provide the things that I need. Since CoreCivic is a contractor with the Tennessee Department of Correction, the company is acting under state law.

Relief Requested

1. Order CoreCivic to pay for surgery.
2. Provide any medical care for cancer related injuries for life after release.

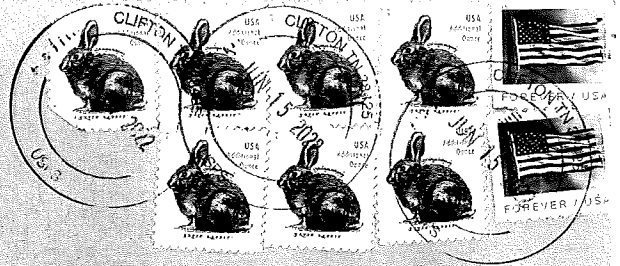
3. Request a jury trial so that liability can be determined and that punitive and/or compensatory damages can be awarded by the jury as it deems just.
4. Allow me to amend this complaint to add more defendants, such as CoreCivic officials in their individual or official capacity, or whoever at CoreCivic may be responsible for this denial of surgery.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert C. Smith", written over a horizontal line.

Robert Smith
Plaintiff, pro se

Robert J. Smith #343745
J.C.C.F. EA-118
P.O. Box 279
Clifton, TN 38425



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Legal Mail

"The Department Of Correction/SCCF
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